

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42117

CARGILL, INC.; E.I. DU PONT DE NEMOURS AND COMPANY; EXXON MOBIL CORPORATION; JONES-HAMILTON CO.; PPG INDUSTRIES, INC.; REAGENT CHEMICAL AND RESEARCH, INC.; TAMINCO METHYLAMINES, INC.

v.

ABERDEEN AND ROCKFISH RAILROAD COMPANY; BALTIMORE AND OHIO CHICAGO TERMINAL RAILROAD COMPANY; BNSF RAILWAY COMPANY; BOSTON AND MAINE CORPORATION; BUFFALO AND PITTSBURGH RAILROAD, INC.; CANADIAN NATIONAL RAILWAY; CANADIAN PACIFIC RAILWAY; CEDAR RAPIDS AND IOWA CITY RAILWAY COMPANY; CENTRAL WASHINGTON RAILROAD COMPANY; CSX TRANSPORTATION INC.; ELGIN, JOLIET AND EASTERN RAILWAY COMPANY; GARY RAILWAY COMPANY; INDIANA & OHIO RAILWAY COMPANY; IOWA, CHICAGO & EASTERN RAILROAD CORPORATION; IOWA NORTHERN RAILWAY COMPANY; KANSAS CITY SOUTHERN RAILWAY COMPANY; MAINE CENTRAL RAILROAD COMPANY; MONTANA RAIL LINK, INC.; NEW YORK, SUSQUEHANNA AND WESTERN RAILWAY CORP.; NORFOLK SOUTHERN RAILWAY COMPANY; PAN AM RAILWAYS INC.; PORTLAND TERMINAL COMPANY; ROCHESTER AND SOUTHERN RAILROAD, INC.; SANDERSVILLE RAILROAD COMPANY; SPRINGFIELD TERMINAL RAILWAY CO.; UNION PACIFIC RAILROAD COMPANY; ASSOCIATION OF AMERICAN RAILROADS; RAILINC

Decided: June 15, 2010

On January 29, 2010, Cargill, Inc., Exxon Mobil Corporation, Jones-Hamilton Co., PPG Industries, Inc., and Reagent Chemical and Research, Inc. (collectively, complainants<sup>1</sup>), filed a complaint against the above-named parties (collectively, defendants). Complainants request that the Board determine the reasonableness of certain rail practices and prescribe reasonable rail practices for the future. Specifically, complainants allege that, with respect to the calculation of “mileage equalization” charges set forth in Freight Tariff RIC 6007-Series (Tariff), Item 187 and Item 190, defendants have charged complainants unreasonable amounts due to interpretations and applications of the Tariff that were not justified either by the Tariff or decisions of the Board’s predecessor, the Interstate Commerce Commission, and that are thus unlawful. Complainants also filed a petition for mediation simultaneously with their complaint.

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<sup>1</sup> Complainants filed an amended complaint on February 17, 2010, in order to add E.I. du Pont de Nemours and Company and Taminco Methlamines, Inc., as complainants.

By a decision served on June 8, 2010 (June 8 decision), the Board resolved several pending matters and held this proceeding in abeyance to allow for mediation among the parties. The mediation was to take place for a period of 30 days from the appointment of a mediator, subject to requests for an extension. On June 10, 2010, complainants filed a request to extend the mediation period for an additional 30 days to allow for the coordination of multiple parties' schedules. Complainants state that they have discussed this request with AAR defendants,<sup>2</sup> Aberdeen and Rockfish Railroad Company, Cedar Rapids and Iowa City Railway Company, Central Washington Railroad Company, Indiana & Ohio Railway Company, Montana Rail Link, Inc., New York, Susquehanna and Western Railway Corp., and Pan Am Railways Group,<sup>3</sup> and have been informed that these defendants do not object to this motion. Complainants' request is reasonable and will be granted. Accordingly, the mediation period will last 60 days and may be extended based upon the consent of the parties and the recommendation of the mediator.

Also, the Board's June 8 decision inadvertently omitted North America Freight Car Association (NAFCA) from the list of parties (on page 4) that the Board anticipates will partake in mediation. The Board anticipates that NAFCA will participate in the mediation.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Complainants' request to extend the mediation period from 30 to 60 days is granted.
2. This decision is effective on the date of service.

By the Board, Rachel D. Campbell, Director of the Office of Proceedings.

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<sup>2</sup> The AAR defendants are: Association of American Railroads; Railinc; BNSF Railway Company; Buffalo & Pittsburgh Railroad, Inc.; Canadian National Railway; Canadian Pacific Railway; CSX Transportation, Inc.; Gary Railway Company; Norfolk Southern Railway Company; Rochester & Southern Railroad, Inc.; Kansas City Southern Railway Company; and Union Pacific Railroad Company.

<sup>3</sup> Pan Am Railways, Inc., filed a reply to complainants' petition for mediation jointly with Boston and Maine Corporation, Maine Central Railroad Company, Portland Terminal Company, and Springfield Terminal Railway Co.